

## FCC MAIL SECTION

Before the  
Federal Communications Commission  
JUN 17 9 46 AM '95  
Washington, D.C. 20554

DISPATCHED BY  
MM Docket No. 94-41

In the Matter of

Amendment of Section 73.202(b),	RM-8443
Table of Allotments,	RM-8504
FM Broadcast Stations.	RM-8505
(Cordova and Dora,	
Alabama) <sup>1</sup>	

**REPORT AND ORDER**  
(Proceeding Terminated)

Adopted: June 1, 1995;

Released: June 9, 1995

By the Chief, Allocations Branch:

1. The Commission considers herein the *Notice of Proposed Rule Making*, 9 FCC Rcd 2490 (1994), issued in response to a petition for rule making filed on behalf of New Century Radio, Inc. ("petitioner"), licensee of Station WFFN(FM), Cordova, Alabama, proposing the substitution of Channel 237A for Channel 223A and modification of its authorization accordingly. Petitioner filed supporting comments and a counterproposal (RM-8504). Goodling Broadcasting Company ("GBC") also filed a counterproposal (RM-88505).<sup>2</sup> Haleyville Broadcasting Company, Inc. ("HBC"), licensee of Station WJBB-FM, Haleyville, Alabama, filed comments in support of the petitioner's modification proposal at Cordova. No other comments were received.

2. As stated in the *Notice*, petitioner is currently licensed to operate Station WFFN(FM) on Channel 237A as a 6 kilowatt facility at Cordova, in accordance with the provisions of Section 73.215 of the Commission's Rules.<sup>3</sup> Petitioner previously requested modification of its license to specify operation on Channel 254C3 or Channel 254A at Cordova. However, it was ultimately modified to Chan-

nel 223A at a restricted site in the context of a comparative proceeding in MM Docket No. 90-476. See 7 FCC Rcd 5489 (1992).

3. In support of its proposal petitioner maintains that the site restriction placed on Channel 223A would require it to relocate the transmitter for Station WFFN(FM) away from its core market, resulting in the loss of a second and third city grade signal to 21,604 persons, while merely adding its signal to areas already well served by broadcast facilities in the Birmingham area.<sup>4</sup> Petitioner alleges that the retention of Channel 237A at Cordova would enable Station WFFN(FM) to provide a second 70 dBu signal to 7,384 people in an area of 118.3 square kilometers, and a third city grade signal to 14,220 people in an area of 134.4 square kilometers.

4. In addition to its continuing support to modify Station WFFN(FM) to specify operation on Channel 237A at Cordova, petitioner requests the allotment of Channel 223A to Dora, Alabama, as that community's first local FM service, upon its deletion at Cordova. Petitioner stated its intention to apply for Channel 223A if allotted to Dora, as requested. GBC also counterproposed the allotment of Channel 223A to Dora, for which it also stated an intention to apply for authority to construct a broadcast facility at that community.

5. HBC supports the petitioner's proposal, advocating that the allotment of Channel 237A at Cordova would serve to eliminate potential interference to the operation of its Station WJBB-FM, Channel 224A at Haleyville, Alabama.<sup>5</sup>

6. Based upon the information presented, we will substitute Channel 237A for Channel 223A at Cordova since it will enable Station WFFN(FM) to expand its coverage area. Therefore, we will modify petitioner's license for Station WFFN(FM) to specify operation on Channel 237A, as requested. Additionally, in response to the counterproposals noted above, we will allot Channel 223A to Dora, Alabama, as that community's first local FM service. However, as indicated in the *Notice* and reiterated in footnote 6, *infra*, the issuance of a license for Channel 237A at the petitioner's requested site at Cordova, as well as for Channel 223A at Dora may be withheld until a license is issued to cover the construction permit for Station WCOC(FM), Channel 238A, at Holly Pond, Alabama.

7. As stated in the *Notice* Channel 237A can be allotted to Cordova consistent with the technical requirements of the Commission's Rules at the petitioner's specified site, utilizing coordinates 33-49-01 North Latitude and 87-11-55 West Longitude.<sup>6</sup> Moreover, Channel 223A can be allotted

<sup>1</sup> The community of Dora, Alabama, has been added to the caption.

<sup>2</sup> Public Notice of the counterproposals (RM-8504; RM-8505) was given on August 16, 1994 (Report No. 2026).

<sup>3</sup> Coordinates at the petitioner's presently licensed site at Cordova are 33-50-42 North Latitude and 87-18-26 West Longitude.

<sup>4</sup> In this regard, petitioner stated that Channel 223A at the restricted Cordova site would add a ninth 70 dBu signal to approximately 26,480 people, a third 70 dBu signal to approximately 566 people in an area of 14.4 square kilometers, and a second city grade signal to approximately 65 people in an area comprised of less than 1 square kilometer.

<sup>5</sup> HBC asserts that when Station WFFN(FM) previously operated on a first adjacent channel at Cordova, it resulted in the disruption of Station WJBB-FM's signal to numerous communities within its service area. HBC avers that Station

WFFN(FM) also experienced similar interference problems from Station WJBB-FM at that time. HBC asserts that if Station WFFN(FM) is required to operate on Channel 223A, there could be mutual interference once again to listeners in the service areas of each licensee.

<sup>6</sup> As previously stated, the requested allotment of Channel 237A at Cordova is short-spaced to the reference coordinates for Channel 238A at Holly Pond at 34-09-03 North Latitude and 86-36-39 West Longitude, as well as to the construction permit issued to Good Earth Broadcasting, Inc. ("Good Earth") for Station WCOC(FM), Channel 238A at coordinates 34-06-16 North Latitude and 86-41-47 West Longitude at that community (File No. BPH-900122NT). Although the Holly Pond authorization to construct the facilities for Station WCOC(FM) affords contour protection to Station WFFN(FM) pursuant to the provisions of Section 73.215 of the Commission's Rules, the issu-

to Dora, Alabama, in conformity with Section 73.207(b)(1) of the Commission's Rules provided the transmitter therefor is sited at least 6.5 kilometers (4 miles) south of the community at coordinates 33-40-26 North Latitude and 87-06-55 West Longitude.<sup>7</sup>

8. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective **July 24, 1995**, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED with respect to the communities listed below, as follows:

City	Channel No.
Cordova, Alabama	237A
Dora, Alabama	223A

9. The window period for filing applications for Channel 223A at Dora, Alabama, will open on **July 24, 1995**, and close on **August 24, 1995**.

10. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of New Century Radio, Inc. for Station WFFN(FM), IS MODIFIED to specify operation on Channel 237A in lieu of Channel 223A, subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in Station WFFN(FM)'s license, except the channel as specified above. Any other changes, except those so specified under Section 73.1690 of the Rules, require prior authorization pursuant to an application for a construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of Section 73.1620 of the Rules, PROVIDED the transmission facilities comply in all respects with the license issued for Station WFFN(FM), except for the channel as specified above, and a license application (FCC Form 302) is filed within 10 days of commencement of program "K" tests.

11. IT IS FURTHER ORDERED, That the Secretary of the Commission SHALL SEND a copy of this *Report and Order* by Certified Mail, Return Receipt Requested, to the permittee of Station WCOC-FM, Holly Pond, Alabama, as follows:

Good Earth Broadcasting, Inc.  
P.O. Box 968  
Cullman, Alabama 35056

ance of a license for Station WFFN(FM) to operate on Channel 237A at its specified site at Cordova may be withheld until a license is issued to cover the construction permit on Channel 238A at Holly Pond. We will serve Good Earth with a copy of this *Report and Order*.

<sup>7</sup> The counterproponents each suggested sites for Channel 223A at Dora, Alabama, located further from the community. However, in determining compliance with the minimum distance

12. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

13. For further information concerning the above, contact Nancy Joyner, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process for Channel 223A at Dora, Alabama, should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 418-2700.

#### FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

separation requirements of the Commission's Rules, if a new proposed allotment requires a site restriction, the Commission will endeavor to assign the least restrictive theoretical site from the intended city of license. See *Fort Myers, Florida*, 3 FCC Rcd 2671 (1988). It is not until the application stage that the actual availability of a particular site is demonstrated. See *West Palm Beach, Florida*, 3 FCC Rcd 5810 (1988).